

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Jacques Pierre, #305613,)	C/A NO. 3:09-226-CMC-JRM
)	
Plaintiff,)	OPINION and ORDER
)	
v.)	
)	
Jon E. Ozmint, Director,)	
)	
Defendant.)	
_____)	

This matter is before the court on Plaintiff's *pro se* complaint, filed in this court pursuant to 42 U.S.C. § 1983.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(d), DSC, this matter was referred to United States Magistrate Judge Joseph R. McCrorey for pre-trial proceedings and a Report and Recommendation ("Report"). On February 5, 2010, the Magistrate Judge issued a Report recommending that several pending motions filed by Plaintiff be denied, that Defendant's motion for summary judgment be granted and this matter dismissed with prejudice. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Plaintiff filed objections to the Report on February 17, 2010.¹

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is

¹Plaintiff also submitted Objections to the Report which were received by the Clerk on February 19, 2010, but these Objections are identical to the Objections filed February 17, 2010.

made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b).

After reviewing the record of this matter, the applicable law, the Report and Recommendation of the Magistrate Judge, and Plaintiff's objections, the court agrees with the conclusions of the Magistrate Judge. Accordingly, the court adopts and incorporates the Report and Recommendation by reference in this Order. Therefore, for the reasons stated by the Magistrate Judge, Plaintiff's motions to strike (Dkt. # 14), for Contempt (Dkt. # 31), and for Entry of Default (Dkt. # 34) are **denied**.

Plaintiff has also filed what this court construes to be an appeal of Magistrate Judge McCrorey's order denying Plaintiff's motion to compel. *See* Dkt. # 42 (filed Dec. 17, 2009). Additionally, Plaintiff has sent this court three letters which this court construes as further support for his appeal of Magistrate Judge McCrorey's order. *See* Dkt. Nos. 43, 44, 45.

The court has considered Plaintiff's "appeal" and support thereof and finds that Plaintiff has failed to show that the Order of the Magistrate Judge is clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1)(A). Therefore, the court declines to reconsider the Order of the Magistrate Judge.

As to Plaintiff's objections to the Report recommending summary judgment, Plaintiff's arguments are without merit. Plaintiff contends in his objections that his "inability" to conduct "sufficient" discovery hindered his ability to prosecute this action. However, it is clear from the record that Defendant complied with Plaintiff's discovery requests which were relevant to the claims presented in Plaintiff's complaint.

Plaintiff argues in his objections that Defendant Ozmint is the correct defendant because under the South Carolina Code, “all actions accruing to the Department shall be brought in the name of the Director.” Obj. at 6 (Dkt. # 48, filed Feb. 17, 2010), citing S.C. Code Ann. § 24-1-220. However, the purpose of S.C. Code § 24-1-220 is to designate a representative to represent the South Carolina Department of Corrections (SCDC) in litigation in which SCDC is a plaintiff or defendant. Therefore, this contention is without merit.

Plaintiff’s motion for summary judgment is **denied**. Defendants’ motion for summary judgment is **granted** and this matter is dismissed with prejudice.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
February 24, 2010

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